

ESTTA Tracking number: **ESTTA678477**

Filing date: **06/16/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91213597
Party	Defendant Tigercat International Inc.
Correspondence Address	CANDACE LYNN BELL ECKERT SEAMANS CHERIN & MELLOTT LLC 50 S 16TH STREET, 22ND FLOOR PHILADELPHIA, PA 19102 2523 UNITED STATES cbell@eckertseamans.com, rjacobsmeadway@eckertseamans.com, lscol- lon@eckertseamans.com
Submission	Other Motions/Papers
Filer's Name	Candace Lynn Bell
Filer's e-mail	cbell@eckertseamans.com, rjacobsmeadway@eckertseamans.com, afleish- er@eckertseamans.com
Signature	/Candace Lynn Bell/
Date	06/16/2015
Attachments	DECLARATION OF SUZANNE CLINE ISO MOTION TO QUASH (M1383805).pdf(139483 bytes) EXHIBIT A TO CLINE DECLARATION ISO MOTION TO QUASH (M1383807).pdf(127377 bytes) EXHIBIT B TO CLINE DECLARATION ISO MOTION TO QUASH (M1383808).pdf(184348 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

CATERPILLAR INC.,

OPPOSER,

v.

TIGERCAT INTERNATIONAL INC.

APPLICANT.

Opposition No. 91213597

DECLARATION OF SUZANNE CLINE
IN SUPPORT OF APPLICANT'S MOTION TO QUASH OPPOSER'S
30(B)(6) NOTICE OF DEPOSITION OF TIGERCAT INTERNATIONAL INC.

Suzanne Cline declares:

1. I am a citizen of Canada and a resident of the Province of Ontario, and I am over the age of eighteen (18).
2. I am the Vice President of Finance for Tigercat Industries Inc. As part of my duties, I communicate on a regular basis with all the officers, department managers and product managers of Tigercat Industries Inc., and have knowledge of their responsibilities.
3. Tigercat Industries Inc. is a corporation formed and organized under the laws of Ontario, Canada with a registered office in Brantford, Ontario, Canada. Attached hereto as Exhibit A is a true and correct copy of the Corporation Profile Report from the Province of Ontario's corporate registrar for Tigercat Industries Inc.
4. I have reviewed the Notice of Deposition for Tigercat International Inc. including Schedule A, attached hereto as Exhibit B. Based on my knowledge of the responsibilities of the officers, department managers and product managers of Tigercat Industries Inc., I know the persons who are most knowledgeable to speak on the topics listed in the Notice of Deposition for Tigercat International Inc., Schedule A. The persons are Mr. Paul Iarocci, Mr. Kevin Selby, Ms. Martine Leveille and myself.
5. As part of my responsibilities as Vice President of Finance for Tigercat Industries Inc., I oversee the payroll for Tigercat Industries Inc. Tigercat Industries Inc. tracks employee addresses and citizenship in connection with its payroll records and personnel files. I have reviewed the payroll records and personnel files for home address information and citizenship

for the persons listed below in Paragraphs 6-9, who will be the designated 30(b)(6) witnesses for Tigercat International Inc. Each person, listed below, is a citizen of Canada and a resident of the Province of Ontario, Canada. Each person, listed below, is an employee of Tigercat Industries Inc., a corporation formed and organized under the laws of Ontario, Canada with a registered office in Brantford, Ontario, Canada.

6. Paul Iarocci is Marketing/Communication Manager of Tigercat Industries Inc., and will be one of the persons Tigercat International Inc. designates as a 30(b)(6) witness. Mr. Iarocci resides at 25 Riverview Drive, Brantford, Ontario, Canada N3T 5A8, and is regularly employed by Tigercat Industries Inc. at 54 Morton Avenue, East, Brantford, Ontario, Canada N3R 7J7 address. Mr. Iarocci is a Canadian citizen.

7. I am as stated above Vice President of Finance for Tigercat Industries Inc. and will be one of the persons Tigercat International Inc. designates as a 30(b)(6) witness. I reside at 31 Stoneman Court, Cambridge, Ontario, Canada N1P 1C9 and am regularly employed by Tigercat Industries Inc. at 54 Morton Avenue, East, Brantford, Ontario, Canada N3R 7J7 address. I am a Canadian citizen.

8. Kevin Selby is United States Sales Manager for Tigercat Industries Inc. and will be one of the persons Tigercat International Inc. designates as a 30(b)(6) witness. Mr. Selby resides at 221 Kinross Street, Caledonia, Ontario, Canada, N3W 2K5 and is regularly employed by Tigercat Industries Inc. at 54 Morton Avenue, East, Brantford, Ontario, Canada N3R 7J7 address. Mr. Selby is a Canadian citizen.

9. Martine Leveille is Warranty Manager for Tigercat Industries Inc. and will be one of the persons Tigercat International Inc. designates as a 30(b)(6) witness. Ms. Leveille resides at 14 Sheffield Avenue, Brantford, Ontario, Canada, N3S 6V8 and is regularly employed by Tigercat Industries Inc. at 54 Morton Avenue, East, Brantford, Ontario, Canada N3R 7J7 address. Ms. Leveille is a Canadian citizen.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on the date listed below at 54 Morton Avenue East, Brantford, Ontario, Canada N3R 7J7.

Date:

June 16/15

By:

Suzanne Cline

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the attached Declaration of Suzanne Cline and Declaration of Kathy Billings were served on counsel for Opposer on the date listed below via electronic mail and courtesy copy by U.S. Mail:

Christopher P. Foley
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
901 New York Ave., N.W.
Washington, DC 20001-4413

Laura K. Johnson
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
2 Seaport Boulevard
Boston, MA 02210

Dated: June 16, 2015

By: _____

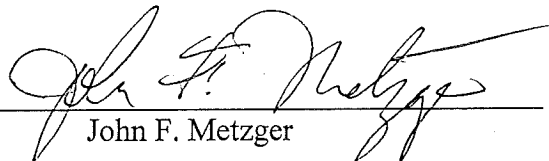

John F. Metzger

EXHIBIT A

Request ID: 017703040
Transaction ID: 57830412
Category ID: UN/E

Province of Ontario
Ministry of Government Services

Date Report Produced: 2015/06/05
Time Report Produced: 16:19:03
Page: 1

CORPORATION PROFILE REPORT

Ontario Corp Number	Corporation Name	Amalgamation Date
1589824	TIGERCAT INDUSTRIES INC.	2003/12/01
		Jurisdiction
		ONTARIO
Corporation Type	Corporation Status	Former Jurisdiction
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
Registered Office Address	Date Amalgamated	Amalgamation Ind.
54 MORTON AVE EAST	NOT APPLICABLE	A
	New Amal. Number	Notice Date
BRANTFORD ONTARIO CANADA N3R 7J7	NOT APPLICABLE	NOT APPLICABLE
		Letter Date
Mailing Address		NOT APPLICABLE
54 MORTON AVE EAST	Revival Date	Continuation Date
	NOT APPLICABLE	NOT APPLICABLE
BRANTFORD ONTARIO CANADA N3R 7J7	Transferred Out Date	Cancel/Inactive Date
	NOT APPLICABLE	NOT APPLICABLE
	EP Licence Eff.Date	EP Licence Term.Date
	NOT APPLICABLE	NOT APPLICABLE
	Number of Directors Minimum Maximum	Date Ceased in Ontario
	00001 00005	NOT APPLICABLE
Activity Classification		NOT APPLICABLE
NOT AVAILABLE		

Request ID: 017703040
Transaction ID: 57830412
Category ID: UN/E

Province of Ontario
Ministry of Government Services

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CORPORATION PROFILE REPORT

Ontario Corp Number

1589824

Corporation Name

TIGERCAT INDUSTRIES INC.

Corporate Name History

TIGERCAT INDUSTRIES INC.

Effective Date

2003/12/01

Current Business Name(s) Exist:

NO

Expired Business Name(s) Exist:

NO

Amalgamating Corporations

Corporation Name

TIGERCAT INDUSTRIES INC.

MANUFACTURERS METALFAB INC.

Corporate Number

966197

1143077

Request ID: 017703040
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Province of Ontario
Ministry of Government Services

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CORPORATION PROFILE REPORT

Ontario Corp Number

1589824

Corporation Name

TIGERCAT INDUSTRIES INC.

**Administrator:
Name (Individual / Corporation)**

SUZANNE
CLINE

Address

31 STONEMAN COURT

CAMBRIDGE
ONTARIO
CANADA N1P 1C9

Date Began

2003/12/01

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

VICE-PRESIDENT

Resident Canadian

**Administrator:
Name (Individual / Corporation)**

ANTHONY
IAROCCI

Address

408 GOLF ROAD

BRANTFORD
ONTARIO
CANADA N3T 5L8

Date Began

2003/12/01

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

PRESIDENT

Resident Canadian

Y

Request ID: 017703040
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Province of Ontario
Ministry of Government Services

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CORPORATION PROFILE REPORT

Ontario Corp Number

1589824

Corporation Name

TIGERCAT INDUSTRIES INC.

Administrator:

Name (Individual / Corporation)

MARTIN
JENNINGS

Address

1869 EARLWOOD DRIVE

CAMBRIDGE
ONTARIO
CANADA N3H 5A4

Date Began

2003/12/01

First Director

NOT APPLICABLE

Designation

OFFICER

Officer Type

VICE-PRESIDENT

Resident Canadian

Administrator:

Name (Individual / Corporation)

KENNETH
JOHN
MACDONALD

Address

21 OLD MILL ROAD
R R #3

CAMBRIDGE
ONTARIO
CANADA N3H 4R8

Date Began

2003/12/01

First Director

NOT APPLICABLE

Designation

DIRECTOR

Officer Type

Resident Canadian

Y

Request ID: 017703040
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CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

1589824

TIGERCAT INDUSTRIES INC.

Administrator:

Name (Individual / Corporation)

Address

KENNETH
JOHN
MACDONALD

21 OLD MILL ROAD
R R #3

CAMBRIDGE
ONTARIO
CANADA N3H 4R8

Date Began

First Director

2003/12/01

NOT APPLICABLE

Designation

Officer Type

Resident Canadian

OFFICER

SECRETARY

Y

Administrator:

Name (Individual / Corporation)

Address

KENNETH
JOHN
MACDONALD

21 OLD MILL ROAD
R R #3

CAMBRIDGE
ONTARIO
CANADA N3H 4R8

Date Began

First Director

2003/12/01

NOT APPLICABLE

Designation

Officer Type

Resident Canadian

OFFICER

TREASURER

Y

Request ID: 017703040
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Province of Ontario
Ministry of Government Services

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CORPORATION PROFILE REPORT

Ontario Corp Number

Corporation Name

1589824

TIGERCAT INDUSTRIES INC.

Last Document Recorded

Act/Code	Description	Form	Date
CIA	ANNUAL RETURN 2013	1C	2014/06/07 (ELECTRONIC FILING)

THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Director of Companies and Personal Property Security Branch.

EXHIBIT B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

CATERPILLAR INC., Opposer, v. TIGERCAT INTERNATIONAL INC., Applicant.	Opposition No. 91213597 Application Serial No. 85/591,967 Mark: TIGERCAT Application date: April 8, 2012
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NOTICE TO TAKE DEPOSITION OF TIGERCAT INTERNATIONAL INC.

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, on June 24, 2015 at 9:00 am, Opposer Caterpillar Inc. (“Opposer” or “Caterpillar”) will take the deposition upon oral examination of Applicant Tigercat International Inc. (“Applicant” or “Tigercat”), by and through the officers, directors, managing agents, or other persons designated as being competent to testify on behalf of Defendant, at the Embassy Suites Buffalo, 200 Delaware Ave, Buffalo, NY 14202, or at a location to be mutually agreed upon by the parties, with respect to the matters set forth in the attached Schedule A, before a Notary Public or another person qualified by law to administer oaths.

The deposition(s) will continue day-to-day until such time as completed and will be recorded by stenographic, audio, video, or other means. You are invited to attend.

Dated: May 11, 2015

Respectfully submitted,

/Christopher P. Foley/

Christopher P. Foley
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
901 New York Ave., N.W.
Washington, D.C. 20001-4413
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Laura K. Johnson
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
2 Seaport Boulevard
Boston, MA 02210
Telephone: 617-646-1600
Facsimile: 617-646-1666

Attorneys for Opposer
Caterpillar Inc.

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing NOTICE OF DEPOSITION OF TIGERCAT INTERNATIONAL INC. was served via electronic mail, upon counsel for Applicant, on May 11, 2015.

/Laura K. Johnson/

Laura K. Johnson

SCHEDULE A

DEFINITIONS AND INSTRUCTIONS

Caterpillar incorporates by reference the definitions and instructions set forth in Opposer's First Set of Interrogatories to Applicant served February 28, 2014.

TOPICS FOR EXAMINATION

1. The Products with which Applicant's Mark has been used, are currently used, and/or intend to be used from the date of first use of Applicant's Marks to the present.
2. The specifications and features of Applicant's Products and Services.
3. The applications and fields of use for Applicant's Products and Services.
4. Applicant's warranties to consumers relating to Applicant's Products and Services or the applications and fields of use for Applicant's Products and Services.
5. Applicant's product development and product expansion efforts in connection with goods offered or sold under Applicant's Mark.
6. The annual dollar volume and unit sales in the United States for products bearing or offered under Applicant's Mark from 2009 to the present.
7. Applicant's sale of goods in the forestry field for 2009 to the present.
8. Applicant's sale of goods in the off-road industrial field for 2009 to the present.
9. Applicant's sale of goods in outside of the forestry and off-road industrial fields for 2009 to the present.
10. The manufacturer's suggested retail price, wholesale prices (to Applicant's dealers), and actual selling prices of Applicant's Products and Services from 2009 to the present.
11. Applicant's annual dollar volume of advertising and promotional expenditures in the United States for products bearing or offered under Applicant's Mark from 2009 to the present.
12. Advertising and promotion of Applicant's Mark from 2009 to the present.
13. Applicant's advertising of machinery and equipment outside of the forestry field.
14. Applicant's advertising of machinery and equipment in the forestry field.

15. The channels of trade through which Applicant has marketed and offered, currently markets and offers, and intends to market and offer Applicant's Products and Services.

16. Trade shows at which Applicant has advertised, promoted, marketed, exhibited, offered, or sold Applicant's Products and Services.

17. Applicant's participation in any conferences or events in the forestry, agricultural, mining, vegetation management, off-road industrial, oil and gas, or construction fields.

18. The methods of distribution of Applicant's Products and Services from 2009 to the present.

19. Any meanings of Applicant's Mark.

20. Any use of Applicant's Mark in conjunction with feline imagery.

21. Any name or mark comprised of or containing the term "Cat" that Applicant has used or registered, or intends to use or register, apart from Applicant's Mark.

22. The categories, types, nature, and characteristics of distributors of products bearing Applicant's Mark from 2009 to the present.

23. The categories, types, nature, and characteristics of retailers of products bearing Applicant's Mark from 2009 to the present.

24. The categories, types, nature, and characteristics of customers of products bearing Applicant's Mark from 2009 to the present.

25. Any instance where a person has been confused, mistaken, or deceived about the source, affiliation, association, relationship, ownership, or sponsorship between Applicant's Mark and Opposer's Mark, or between products offered, promoted, or sold under those marks.

26. Any instance where a person has inquired whether an affiliation, connection, sponsorship, or relationship exists between Applicant's Mark or products offered under Applicant's Mark on the one hand and Opposer's Mark or products offered under Opposer's Mark on the other hand.

27. Any investigations, research, reports, surveys, focus groups, or studies relating to likelihood of confusion between Applicant's Mark and Opposer's Mark.

28. Any investigations, research, reports, surveys, focus groups, or studies conducted by or on behalf of Applicant that concern or relate to Applicant's Mark or Opposer's Mark.

29. All trademark searches, reports, research, or investigations obtained or conducted by or on behalf of Applicant concerning Applicant's Mark.

30. Objections Applicant has made to third parties' use and/or registration of marks, names, or designs based on Applicant's Mark.

31. Objections Applicant has received from third parties regarding Applicant's use and/or registration of Applicant's Mark.

32. All judicial and administrative proceedings involving or relating to Applicant's Mark other than this opposition proceeding.

33. Applicant's knowledge and awareness of Opposer's use of Opposer's Mark.

34. Applicant's knowledge and awareness of the fame of Opposer's Mark.

35. Applicant's knowledge and awareness of the public perception of Opposer's Mark.